

00-2-1267

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING
THE SETTLEMENT OF THE
CLAIM OF THOMAS S.
LOCKHART IN THE AMOUNT
OF \$3,690.00 AGAINST THE CITY
OF ATLANTA ARISING FROM A
SEWER BACK UP

By: *Rosalind Rubens Newell*
Rosalind Rubens Newell
Deputy City Attorney

ADOPTED BY

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair *C. T. Marks*
Referred to _____

Committee <i>P.S. & L.A.</i>	Committee
Date <i>8/15/00</i>	Date
Chair <i>C. T. Marks</i>	Chair
Action: Fav, Adv, Hold (see rev. side)	Action: Fav, Adv, Hold (see rev. side)
Other:	Other:
Members <i>Marked</i>	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side)	Action: Fav, Adv, Hold (see rev. side)
Other:	Other:
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☒ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED
SEP 5 2000
Rosalind Rubens Newell
MUNICIPAL CLERK

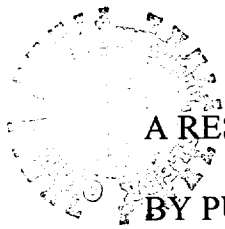
CERTIFIED
SEP 0 5 2000
Rosalind Rubens Newell
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

SEP 1 4 2000

WITHOUT SIGNATURE
BY OPERATION OF LAW



CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF
THOMAS S. LOCKHART IN THE AMOUNT
OF \$3,690.00 AGAINST THE CITY OF
ATLANTA ARISING FROM A SEWER
BACK UP.**

00-*2*-1267

WHEREAS, THOMAS S. LOCKHART has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 3092 Delmar Lane, NW, Atlanta, Georgia; and

WHEREAS, property owned by THOMAS S. LOCKHART has been damaged due to sewer back ups and sewer overflows due to the blockage of the mainline. This blockage is due to an accumulation of grease, sludge and roots which the City had knowledge of prior to the back up which occurred on February 20, 2000 specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and made an attempt, however unsuccessful, to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$5,490.00 and has agreed to accept \$3,690.00 in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of THOMAS S. LOCKHART, be settled for the sum of \$3,690.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$3,690.00 be paid by the City of Atlanta to THOMAS S. LOCKHART, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about February 19, 2000 and February 20, 2000, at 3092 Delmar Lane, NW, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,

Phonda Daughlin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

SEP 05, 2000

SEP 14, 2000



DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0246

Date: August 3, 2000

Claimant /Victim THOMAS S. LOCKHART
BY: (Atty) (Ins. Co.) _____
Address: 3092Delmar Lane, NW, Atlanta, Georgia 30311
Subrogation: _____ Claim for Property damage \$ 5,490.00 Bodily Injury \$ _____
Date of Notice: 4/20/00 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 2/19/00, 2/20/00 Place: 3092Delmar Lane,NW
Department PUBLIC WORKS Division Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant sustained property damages to his residence from a sanitary sewer back up. An investigation determined that the City was on notice of said sewer problem at this location, but failed to correct it.

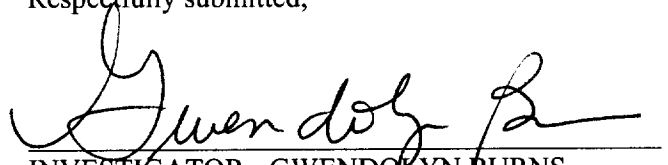
INVESTIGATION:

Statements: City employee _____ Claimant X Others _____ Written _____ Oral X
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

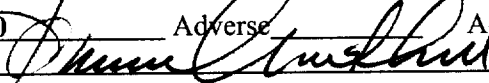
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X
City not involved _____ Offer rejected _____ Compromise settlement X
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 3,690.00 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____
Claims Manager:  Concur/date 08/04/00
Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

BURNS
04/26/00

Today's Date: 3-28-00

APR 5

04-05-00 P06:04 IN

ENTERED - 04/26/00 - tew
00L0246 - GWEN BURNS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 5,490 property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 2-19-00 2. Time of Incident: 2:00/2:30 3. Police called: ✓
(month/day/year). Yes No
4. Location of incident (including street address): 3092 Delmar LN NW Atlanta, GA. 30311
5. Name of your insurance company: _____ Policy No. _____
6. State what and how incident occurred: The sewer water back-up in the basement of my home. I have sent some picture of my losses. I also have a proposal for my water damage. I lost T.V., Furniture, Clothing, shoes, Appliances & Collectibles. I had a plumber give me a price of \$500 to \$1800.
7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Thomas J. Lockhart
Signature of Claimant

THOMAS STACY LOCKHART
(Print Claimant's Name)

3092 Delmar LN NW
(Address)

Atlanta Georgia 30311
(City, State and Zip Code)

404/761-1125 (404/972-9662)
(Work Number) (Home Number)



GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 00L0246

\$ 3,690.00

IN CONSIDERATION of the sum of THREE THOUSAND SIX HUNDRED NINETY DOLLARS AND 00/100s DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of a property damage incident - sewer back up which occurred on or about the 19th & 20th day of February, 2000, at or near 3092 Delmar Lane, NW.

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

WITNESS my hand and seal this July day of 29, 20 00.

Thomas S. Lockhart (LS)
Thomas Stacey Lockhart

(LS)

The above release was read and explained to, and signed by the said Thomas Stacey Lockhart in our presence on the date above written.

Evelyn S. Jones
Marceia Graves
WITNESSES

RCS# 2194
9/05/00
2:17 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-12

Adopt

YEAS:	13	SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA
NAYS:	0	
ABSTENTIONS:	0	
NOT VOTING:	3	
EXCUSED:	0	
ABSENT	0	

Y McCarty	Y Dorsey	Y Moore	Y Thomas	ITEM (S) REMOVED FROM <u>CONSENT AGENDA</u> 00-O-1007 00-R-1309
Y Starnes	NV Woolard	Y Martin	Y Emmons	
NV Bond	Y Morris	Y Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

09/05/00 Council Meeting	
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
<ol style="list-style-type: none"> 1. 00-O-1102 2. 00-O-1143 3. 00-O-1207 4. 00-O-1295 5. 00-O-1303 6. 00-O-1313 7. 00-O-1124 8. 00-O-1125 9. 00-O-1126 10. 00-O-1127 11. 00-O-1128 12. 00-O-1133 13. 00-O-1196 14. 00-O-1298 15. 00-O-1122 16. 00-O-1300 17. 00-R-1198 18. 00-R-1230 19. 00-R-1290 20. 00-R-1312 21. 00-R-1316 22. 00-R-1265 23. 00-R-1266 24. 00-R-1267 25. 00-R-1268 26. 00-R-1270 27. 00-R-1314 28. 00-R-1229 29. 00-R-1233 30. 00-R-0886 31. 00-R-1236 32. 00-R-1237 33. 00-R-1238 34. 00-R-1239 35. 00-R-1240 36. 00-R-0241 37. 00-R-1242 38. 00-R-1243 39. 00-R-1244 	<ol style="list-style-type: none"> 40. 00-R-1235 41. 00-R-1245 42. 00-R-1246 43. 00-R-1247 44. 00-R-1248 45. 00-R-1249 46. 00-R-1250 47. 00-R-1251 48. 00-R-1252 49. 00-R-1253 50. 00-R-1254 51. 00-R-1255 52. 00-R-1256 53. 00-R-1257 54. 00-R-1258 55. 00-R-1259 56. 00-R-1260 57. 00-R-1261 58. 00-R-1262 59. 00-R-1263 60. 00-R-1264